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IMPLEMENTATION OF ARTICLES I AND II OF THE TREATY ON THE
NON-PROLIFERATION OF NUCLEAR WEAPONS

Background paper prepared by the United Nations Secretariat

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I. INTRODUCTION

1. At its second session, held from 17 to 21 January 1994, the Preparatory Committee for the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons invited the Secretary-General of the United Nations to prepare for the Committee's third session, to be held from 12 to 16 September 1994, a short background paper on the implementation of articles I and II of the Treaty, drawing "largely on the relevant discussions and results of the First, Second, Third and Fourth Review Conferences" and taking into account "recent and current developments in the area of nuclear non-proliferation". At its third session, the Committee requested the Secretariat to amend the paper in the light of comments made in the course of the session, to update it by taking into account current events and to submit it to the Conference. The present paper is submitted in response to that request.

2. As articles I and II define respectively the basic obligations of the nuclear-weapon States and the non-nuclear-weapon States parties to the Treaty, 1/ their strict observance is central to the achievement of the goals of the Treaty. This has been underscored at each of the four Review Conferences held since the entry into force of the Treaty.

II. REVIEW OF THE IMPLEMENTATION OF ARTICLES I AND II AT THE PRECEDING REVIEW CONFERENCES OF THE PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

3. In the Final Declaration of the First Review Conference (1975), 2/ which was adopted by consensus, the participants stated that the obligations undertaken under articles I and II of the Treaty had been faithfully observed by all parties, and that the continued strict observance of those articles remained central to the shared objective of averting the further proliferation of nuclear weapons.

4. At the Second Review Conference (1980), no final declaration was adopted. In the general debate, 3/ however, several parties made explicit comments on the implementation of articles I and II of the Treaty and noted that there had been no complaints or suggestions that States parties to the Treaty had failed to carry out obligations they had assumed. Nevertheless, concern was expressed about the increasing capability of some non-parties to the Treaty to develop nuclear weapons. Subsequently, in Main Committee I of the Conference, 4/ there was mention of the need to strengthen the implementation of the basic provisions of the Treaty. In this connection, it was emphasized that the fulfilment of the Treaty's objectives demanded that no party should in any way assist, encourage or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over them.

5. At the Third Review Conference (1985), in the Final Declaration, 5/ which was adopted by consensus, the parties to the Treaty reiterated that the strict observance of the terms of articles I and II remained central to achieving the shared objectives of preventing under any circumstances the further proliferation of nuclear weapons and preserving the Treaty's vital contribution

to peace and security, including to the peace and security of non-parties. They further stated:

"The Conference acknowledged the declarations by nuclear-weapon States party to the Treaty that they had fulfilled their obligations under article I. The Conference further acknowledged the declarations that non-nuclear-weapon States party to the Treaty had fulfilled their obligations under article II. The Conference was of the view therefore that one of the primary objectives of the Treaty had been achieved in the period under review."

6. The Conference also expressed deep concern that the national nuclear programmes of some States not party to the Treaty might lead them to obtain a nuclear-weapon capability and, in this connection, it stated that any further detonation of a nuclear explosive device by any non-nuclear-weapon State would constitute a most serious breach of the non-proliferation objective.

7. At the Fourth Review Conference (1990), no final declaration was adopted. In the general debate 6/ and, subsequently, in Main Committee I, 7/ participants once again recognized that the full and effective implementation of the Treaty played a major role in promoting international peace and security. They reaffirmed their determination to prevent the proliferation of nuclear weapons, which would lessen the security of all States and increase the risk of nuclear war. The positive developments in the international situation since the Third Review Conference, especially in the East-West context and the relations between the Union of Soviet Socialist Republics and the United States of America, were welcomed and the hope was expressed that that trend would be strengthened and become world wide. There was agreement that the strict observance of the terms of articles I and II made a vital contribution to peace and security, including the peace and security of non-parties. Declarations were made by nuclear-weapon States and non-nuclear-weapon States that they had fulfilled their obligations under article I and article II, respectively. However, deep concern was expressed once again that the national nuclear programmes of some States not party to the Treaty might lead them to develop a nuclear-weapon capability. Some participants saw the need for all States parties to continue to make every effort to ensure an effective implementation of export controls on items possibly destined for use in such nuclear programmes.

III. MAIN DEVELOPMENTS SINCE THE FOURTH REVIEW CONFERENCE

8. In the period since the Fourth Review Conference, several developments of direct relevance to the Treaty in general, and the implementation of its specific provisions in particular, have occurred. At a summit meeting of the Security Council held on 31 January 1992, a statement 8/ was adopted which affirmed that:

"The proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The members of the Council commit themselves to working to prevent the spread of technology related to the research for or production of such weapons and to take appropriate action to that end.

"On nuclear proliferation, they note the importance of the decision of many countries to adhere to the Non-Proliferation Treaty and emphasize the integral role in the implementation of that Treaty of fully effective IAEA safeguards, as well as the importance of effective export controls. The members of the Council will take appropriate measures in the case of any violations notified to them by IAEA."

9. Another important development concerns the status of accession of States to the Treaty. When the Fourth Review Conference met at Geneva in August 1990, there were 141 parties to the Treaty. By February 1995, however, the number had increased to 172. These accessions, 31 altogether, are important developments in strengthening the non-proliferation regime. The accessions by China and France in 1992 made all five nuclear-weapon States committed to the Treaty's provisions. South Africa's accession in 1991 reassured the international community that its past nuclear-weapons programme, as announced in 1993, had been abandoned. The accessions by Belarus, Kazakhstan and Ukraine signified the successful solution of the question of tactical and strategic nuclear weapons located in territories of those States as a result of the dissolution of the Soviet Union. These and all other accessions were repeatedly welcomed and supported by other States parties to the Treaty.

10. Other developments which attracted the attention of the international community concerned non-compliance with provisions of the Treaty on the one hand, and related safeguards agreements on the other. The first case stemmed from revelations that Iraq had, over the years, engaged in activities inconsistent with its Treaty obligations. The second case involved the failure of the Democratic People's Republic of Korea to comply with safeguards obligations. It is dealt with in background paper NPT/CONF.1995/7.

11. In the case of Iraq, early in 1991, the Security Council took specific corrective action. By its resolution 687 (1991) of 3 April 1991 and all subsequent resolutions and decisions relating to the case, it requested Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968; to agree unconditionally not to acquire or develop nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities; to place all of its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of IAEA, with the assistance and cooperation of the Special Commission established under resolution 687 (1991); and to accept the plan for future ongoing monitoring and verification of its compliance with these undertakings.

12. Since the adoption of Security Council resolution 687 (1991), IAEA, with the assistance and cooperation of the Special Commission, has been engaged in the implementation of the relevant provisions of section C of that resolution as it relates to the nuclear field, and subsequent relevant resolutions and decisions, including resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991, the former dealing with the question of the failure of Iraq to comply fully with its obligations under resolution 687 (1991) and the latter providing approval of the plans by the Special Commission and IAEA for monitoring and verification of compliance by Iraq with the requests of the Council (see background paper NPT/CONF.1995/7 prepared by IAEA).

13. Since then, much progress has been made. By late 1993, Iraq had acknowledged its obligations under Security Council resolution 715 (1991) and the plans approved thereunder and had undertaken to cooperate with the Special Commission and IAEA in the implementation of those plans. The Special Commission, in its report dated 24 June 1994, described the developments as follows:

"The situation is very different, generally for the better, from that which obtained at the time of the last report. Iraq has accepted resolution 715 (1991) and the plans for ongoing monitoring and verification. It has provided the Commission much new information about both its past programmes and its dual-purpose facilities. It is committed publicly to cooperate with the Special Commission and IAEA in the implementation of ongoing monitoring and verification and to respect their rights and privileges in doing so." 9/

14. By 31 December 1994, IAEA had carried out 27 inspection missions in Iraq under Security Council resolution 687 (1991). In the course of those inspections, IAEA was able to destroy, render harmless or remove from Iraq all items which had been located and identified as associated with its clandestine nuclear weapons programme. Should IAEA uncover any additional items not previously discovered or declared which are subject to such destruction, rendering harmless or removal from Iraq, IAEA would carry out those activities. 10/

15. A continuous presence in Iraq has been established with the setting up of a Special Commission/IAEA Monitoring and Verification Centre at Baghdad. All elements of the IAEA plan for ongoing monitoring and verification have been in place since August 1994. Monitoring and verification measures will evolve as technical needs arise and as advanced technologies become available. The implementation of the plan does not foreclose the exercise by IAEA of its right to investigate any aspect of Iraq's former nuclear weapons programme. 11/

16. A proposal for an export/import monitoring mechanism has also been prepared by IAEA, the Special Commission and the Security Council Committee established under resolution 661 (1990) (sanctions committee on Iraq) for approval by the Security Council. The purpose is to monitor any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions and the plans for ongoing monitoring and verification approved under resolution 715 (1991). 12/

Notes

1/ Articles I and II of the Treaty read as follows:

"Article I

"Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or

/...

indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices."

"Article II

"Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices."

- 2/ NPT/CONF/35/I, annex I.
- 3/ See NPT/CONF.II/22/II, SR.1-19.
- 4/ Ibid., C.I/SR.1-12.
- 5/ NPT/CONF.III/64/I, annex I.
- 6/ See NPT/CONF.IV/45/III.
- 7/ See NPT/CONF.IV/45/II, document MC.I/1.
- 8/ S/23500.
- 9/ S/1994/750, annex, para. 29.
- 10/ See S/1994/1438, annex, appendix, para. 5.
- 11/ See S/1994/1151, annex, para. 49.
- 12/ See S/1994/1438, annex, appendix, para. 11.
